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17 *Plaintiffs' Interim Lead Counsel*

18 *Additional parties and counsel listed on
19 signature pages.*

20 **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

21 IN RE: FUTURE MOTION, INC.

22 No.: 23-md-03087-BLF

23 PRODUCTS LIABILITY LITIGATION

24 **PLAINTIFFS' PROPOSED
ORGANIZATION AND LEADERSHIP
APPOINTMENTS**

25 This document relates to:

26 **ALL ACTIONS**

27 Personal injury/wrongful death Plaintiffs ("PIWD Plaintiffs") have had the opportunity to
28 discuss the organization and formation of leadership and internally request appointment thereto.
29 PIWD Plaintiffs uniformly intend to establish a balanced leadership team, which reflects diversity of
30 all types and is composed of individuals capable of steering this litigation to resolution. PIWD
31 Plaintiffs recognize that their leadership should include attorneys with demonstrated capacity, skill,
32 reputation, and financial resources to fairly, effectively, and efficiently lead this MDL. They also

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34 **PLAINTIFFS' PROPOSED ORGANIZATION AND LEADERSHIP APPOINTMENTS**

1 recognize the importance of their leadership to reflect a diversity of legal talent in terms of education,
2 background, experience, and demographics. With those considerations in mind, the undersigned
3 submit this Proposed Organization and Leadership Appointment, and would respectfully show the
4 Court as follows:

5 **I. PIWD Plaintiffs' Co-Lead Counsel**

6 **A. Appointment.** PIWD Plaintiffs propose Robert W. Cowan of Bailey Cowan
7 Heckaman PLLC and Rene F. Rocha of Morgan & Morgan to serve as PIWD Plaintiffs' Co-Lead
8 Counsel. A copy of their *curricula vitae* and/or declaration is attached hereto as Exhibits A and B for
9 the Court's review.

10 **B. Responsibilities of PIWD Plaintiffs' Co-Lead Counsel.** Messrs. Cowan and Rocha,
11 as Plaintiffs' Co-Lead Counsel, shall have the following duties and responsibilities:

12 1. Serve as liaison with the Court for all PIWD Plaintiffs during these coordinated pretrial
13 proceedings in response to any inquiries by the Court or opposing counsel, subject to the right of any
14 plaintiff's counsel to present non-repetitive individual or different positions, as long as the presentation
15 does not unduly delay the proceedings.

16 2. Make or submit any oral or written motions to the Court on behalf of the PIWD
17 Plaintiffs, as well as oppose, when necessary, any motions submitted by Defendant involving matters
18 within the Lead Counsel's sphere of responsibilities (except as to matters specifically directed to
19 individual Plaintiffs and their counsel).

20 3. Negotiate and enter into stipulations with the Defendant regarding the litigation. All
21 stipulations entered into by Lead Counsel, except for strictly administrative details such as scheduling,
22 must be submitted for Court approval and will not be binding until the Court has ratified the stipulation.

23 4. Chair the Executive Committee.

1 5. Convene meetings of the Executive Committee for the purpose of proposing joint
2 action and discussing and resolving matters of common concern.

3 6. Coordinate discovery on behalf of the PIWD Plaintiffs consistent with the requirements
4 of Fed. R. Civ. P. 26 and in conjunction with the Executive Committee and Steering Committee.

5 7. Consult with and employ expert witnesses on behalf of the PIWD Plaintiffs consistent
6 with the requirements of Fed. R. Civ. P. 26 and in conjunction with the Executive Committee and
7 Steering Committee.

8 8. Delegate specific tasks to other counsel or designated committees, in a manner that
9 ensures that the PIWD Plaintiffs' pretrial preparation is conducted effectively, efficiently, and
10 economically. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary
11 expenditures of time and funds are avoided.

12 9. Explore, develop, and pursue all settlement options pertaining to any claim or portion
13 thereof in any case filed in this litigation.

14 10. Attend status and case management conferences, including preconference meetings
15 with the Court and opposing counsel.

16 11. Ensure that court orders are followed, schedules are met, discovery is conducted
17 consistent with the requirements of Fed. R. Civ. P. 26, unnecessary expenditures of time and funds are
18 avoided, and any negotiations are reasonably efficient and productive.

19 12. Perform any task necessary to carry out the functions of Lead Counsel to properly
20 coordinate the Plaintiffs' pretrial activities.

21 13. Perform any other functions as may be expressly authorized and/or required by this
22 Court.

23 **II. PIWD Plaintiffs' JCCP-MDL Liaison Counsel**

1 A. **Appointment.** PIWD Plaintiffs propose Anya Fuchs of Pearce Lewis LLP to serve as
2 PIWD Plaintiffs' JCCP-MDL Liaison Counsel. A copy of Ms. Fuchs' *curricula vitae* is attached
3 hereto as Exhibit C for the Court's review.

4 B. **Responsibilities of JCCP-MDL Liaison Counsel.** Ms. Fuchs, as JCCP-MDL Liaison
5 Counsel, shall have the following responsibilities:

6 1. Serve as an ambassador amongst and between the members of Plaintiffs' JCCP
7 leadership and the members of Plaintiffs' MDL leadership for the purpose and objective of aligning
8 and guiding the group towards making decisions with both coordinated proceedings in mind and, when
9 appropriate and desirable, to correlate and combine efforts to preclude duplicative work product that
10 will result in unnecessary costs and an undue consumption of time.

11 2. Propose, when appropriate, that efforts in one coordinated proceeding be adopted or
12 utilized in the other coordinated proceeding. By way of example, JCCP-MDL Liaison Counsel could
13 propose the same Plaintiff Fact Sheet be employed in both proceedings (as has already occurred), that
14 the same or similar offensive discovery be employed in both proceedings (substantively and
15 procedurally), that depositions of Defendant's executives that are taken in one coordinated proceeding
16 be available for use in the other coordinated proceeding, that documents and other information
17 produced in one coordinated proceeding be available for use in the other coordinated proceeding.

18 3. Provide periodic reports regarding the status of the JCCP to PIWD Plaintiffs' MDL
19 leadership and to this Court and, likewise, provide periodic reports regarding the status of the MDL to
20 Plaintiffs' JCCP leadership and the presiding Judge of JCCP No. 5305.

21 4. Attend and participate in Executive Committee meetings with PIWD Co-Lead Counsel.

22 **III. PIWD Plaintiffs' Executive Committee**

23 A. **Appointment.** PIWD Plaintiffs propose Cameron Bell of Oliver Law Group P.C., Eli
24 J. Hare of Dicello Levitt LLP, Michael K. Johnson of Johnson Becker PLLC, Lowell P. McKelvey of
25

1 McKelvey Law LLC, and Megan L. Roper of Bailey Cowan Heckaman PLLC to serve as PIWD
2 Plaintiffs' Executive Committee. A copy of Messrs. Bell, Hare, Johnson, McKelvey, and Ms. Roper's
3 *curricula vitae* are attached hereto as Exhibits D, E, F, G, and H for the Court's review.
4

5 **B. Responsibilities of PIWD Plaintiffs' Executive Committee.** Messrs. Bell, Hare,
6 Johnson, McKelvey, and Ms. Roper, as members of PIWD Plaintiffs' Executive Committee, shall
7 have the following responsibilities:
8

9 1. Coordinate and oversee the activities of PIWD Plaintiffs' counsel during these
10 consolidated pretrial proceedings, as well as monitor and ensure that work conducted by PIWD
11 Plaintiffs' counsel is reasonably necessary and avoids unnecessary costs and duplication of effort.
12

13 2. Determine (after consultation with the Steering Committee and other plaintiffs'
14 counsel, as appropriate) the PIWD Plaintiffs' position on all matters arising during pretrial
15 proceedings.
16

17 3. Coordinate the selection and management of any common issue and/or bellwether
18 discovery and trials.
19

20 4. Schedule meetings of counsel for PIWD Plaintiffs, committees, and subcommittees for
21 any appropriate purpose, including coordinating responses to questions of other parties or of the Court.
22 Maintain minutes or transcripts of these meetings.
23

24 5. Maintain adequate time and disbursement records covering common benefit work of
25 designated counsel and establish guidelines, for approval by the Court, as to the keeping of time
26 records and expenses.
27

28 6. Perform any other task deemed necessary and proper for the Executive Committee to
29 accomplish its responsibilities as defined by the Court's orders.
30

31 7. Attend and participate in Executive Committee meetings with PIWD Co-Lead Counsel.
32

1 **IV. PIWD Plaintiffs' Steering Committee**

2 A. **Appointment.** PIWD Plaintiffs propose Matthew K. Felty of Lytle Soule & Felty P.C.,
3 Aaron M. Heckaman of Bailey Cowan Heckaman PLLC, Michael M. Gallagher Morgan & Morgan,
4 and Hayden N. Wyatt of Bailey Cowan Heckaman PLLC to serve as PIWD Plaintiffs' Steering
5 Committee. A copy of Messrs. Felty, Heckaman, Gallagher, and Wyatt's *curricula vitae* are attached
6 hereto as Exhibits I, J, K, and L for the Court's review.
7

8 B. **Responsibilities of PIWD Plaintiffs' Steering Committee.** Messrs. Felty,
9 Heckaman, Gallagher, and Wyatt, as members of PIWD Plaintiffs' Steering Committee, shall have the
10 following responsibilities:

11 1. Initiate, coordinate, and conduct all pretrial discovery on behalf and for the benefit of
12 all Plaintiffs in the actions consolidated in this MDL.
13

14 2. Develop and propose schedules for the initiation, conduct, and completion of all
15 discovery on behalf of all Plaintiffs.
16

17 3. Cause to be issued in the name of all PIWD Plaintiffs the necessary discovery requests,
18 motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the
19 pretrial discovery of relevant issues found in the pleadings of this litigation.
20

21 4. Schedule meetings of counsel for PIWD Plaintiffs for any appropriate purpose,
22 including coordinating responses to questions of other parties or of the Court. Maintain minutes or
23 transcripts of these meetings.
24

25 5. Prepare periodic status reports summarizing the Steering Committee's work and
26 progress. These reports must be submitted to Co-Lead Counsel and the Executive Committee.
27

28 6. Assemble and prepare "trial packages" that can be used in future cases, including cases
that are remanded to transferor courts for trial.
29

7. Perform any other task deemed necessary and proper for the Steering Committee to accomplish its responsibilities as defined by the Court's orders.

Dated: February 26, 2024

Respectfully submitted,

By: /s/ Robert W. Cowan

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-and-

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